

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-423

September 24, 2002

CENTRAL MAINE POWER COMPANY
Request for Approval of Affiliated Interest
Transaction (Extension of Contract with
Union Water Power Company for
Underground Facilities Location Services)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve an affiliated interest transaction between Central Maine Power Company (CMP) and Union Water Power Company (UWP). UWP, through its "On-Target" business division, provides underground facilities location services to CMP under a five-year contract previously approved by the Commission. This approval allows CMP and UWP to extend the existing contract, set to expire on December 31, 2002, by six months to June 30, 2003.

II. BACKGROUND

On April 15, 1997, in its Order in Docket No. 97-165: *Central Maine Power, Petition for Approval of Affiliated Interest Transaction with Union Water Power Company for Underground Facilities Location Services*, the Commission approved a contract between CMP and UWP for underground facilities location services, finding that the contract between affiliates was not adverse to the public interest as required in 35-A M.R.S.A. § 707(3). On July 22, 2002, CMP filed a request for approval to extend the term of the existing contract to June 30, 2003.

III. DECISION

A public utility may not arrange for the furnishing of any service with an affiliated interest until the Commission finds that the arrangement is not adverse to the public interest pursuant to 35-A M.R.S.A. § 707(3). In the approval of the original contract between CMP and UWP, the Commission found that the prices in the contract were reasonable and accepted CMP's representation that the agreement was made on an arm's-length basis. At this time, both parties have agreed to extend the contract to not later than June 30, 2003, with CMP retaining the option to terminate the contract earlier upon 30 days notice to UWP.

CMP stated in a letter dated September 4, 2002, that in order to enhance potential synergies from its merger with Energy East, Inc, that it is evaluating internal and external options for underground facilities location services and that this review will

not be completed in time to have a new contract in place by December 31, 2002. The Company further stated that it did not wish to enter into a new long-term contract (either with internal or external sources) before its evaluation was complete because that could limit its flexibility if a more attractive alternative was identified later. In addition, CMP noted that it was unlikely that less expensive short-term contract alternatives were currently available.

Due to the fact that CMP is currently operating under an Alternative Rate Plan (or "ARP"), if a technically qualified, low-cost alternative provider was available to the Company on either a long or short-term basis, the incentive would be to for CMP to sign a contract with that provider. That CMP has chosen to extend this contract rather than to pursue other alternatives suggests that it may be beneficial to wait until the Company completes its evaluation process before entering a new contract. We therefore find the Company's request to extend the end date of the current contract to June 30, 2003 to be reasonable and therefore approve it subject to the following caveat. It is our understanding that the successor contract for underground locating services may be a contract between CMP and an affiliate or one between CMP and a non-affiliate. In the event CMP chooses an affiliate, we remind the Company that depending on the complexity of the arrangement that it may take up to 120 days for the Commission to rule on it. Because the contract will be more than five years old by next June and therefore has not been made available for bid by outside firms during that span, we would prefer not to consider any extension of the existing contract beyond June 30 2003. CMP should therefore proceed with its evaluation as quickly as possible and should also file any resulting affiliated interest contract within a time frame that will allow us to rule prior to that date.

Accordingly, we

ORDER

That the end date of the Underground Facilities Location contract between Central Maine Power Company and Union Water Power Company, previously approved by the Commission on April 15, 1997, in its Order in Docket No. 97-165, may be extended from December 31, 2002 to June 30, 2003.

Dated at Augusta, Maine, this 24th day of September, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.